

PLAINTIFF'S COMPLAINT

1 misleading practices, prohibit harassing and abusive tactics, and proscribe unfair or
2 unconscionable conduct, both generally and in a specific list of disapproved practices.

3 12. In particular, the FDCPA broadly enumerates several practices considered
4 contrary to its stated purpose, and forbids debt collectors from taking such action. The
5 substantive heart of the FDCPA lies in three broad prohibitions. First, a “debt collector may not
6 engage in any conduct the natural consequence of which is to harass, oppress, or abuse any
7 person in connection with the collection of a debt.” 15 U.S.C. § 1692d. Second, a “debt
8 collector may not use any false, deceptive, or misleading representation or means in connection
9 with the collection of any debt.” 15 U.S.C. § 1692e. And third, a “debt collector may not use
10 unfair or unconscionable means to collect or attempt to collect any debt.” 15 U.S.C. § 1692f.
11 The FDCPA is designed to protect consumers from unscrupulous collectors, whether or not there
12 exists a valid debt, broadly prohibits unfair or unconscionable collection methods, conduct which
13 harasses, oppresses or abuses any debtor, and any false, deceptive or misleading statements in
14 connection with the collection of a debt.
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16 13. In enacting the FDCPA, the United States Congress found that “[t]here is
17 abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many
18 debt collectors,” which “contribute to the number of personal bankruptcies, to marital instability,
19 to the loss of jobs, and to invasions of individual privacy.” 15 U.S.C. § 1692a. Congress
20 additionally found existing laws and procedures for redressing debt collection injuries to be
21 inadequate to protect consumers. 15 U.S.C. § 1692b.
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23 14. Congress enacted the FDCPA to regulate the collection of consumer debts by debt
24 collectors. The express purposes of the FDCPA are to “eliminate abusive debt collection
25 practices by debt collectors, to insure that debt collectors who refrain from using abusive debt

1 collection practices are not competitively disadvantaged, and to promote consistent State action
2 to protect consumers against debt collection abuses.” 15 U.S.C. § 1692e.

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4 **FACTUAL ALLEGATIONS**

5 15. At all relevant times, Defendant was attempting to collect an alleged consumer
6 debt from Plaintiff.

7 16. The alleged debt at issue arose out of a transaction which Plaintiff believes was
8 for personal, family or household purposes.

9 17. Plaintiff resides at 900 May Post Office Road, Strasburg, Pennsylvania 17579.

10 18. Plaintiff has resided at this address since 1986.

11 19. On or around March 2, 2011, Defendant sent a written correspondence directed to
12 Plaintiff at the address of 583 Greenland Dr., Lancaster, Pennsylvania 17602 to collect an
13 alleged debt on behalf of Verizon. See Exhibit “A.”

14 20. Plaintiff does not reside at 583 Greenland Dr., Lancaster, Pennsylvania 17602,
15 and did not open a Verizon account at this address.

16 21. Plaintiff has never resided at the above Lancaster address.

17 22. Plaintiff’s daughter does however, reside at the above Lancaster, Pennsylvania
18 address.

19 23. Plaintiff did not consent to Defendant sending of debt collection correspondence
20 to his daughter.

21 24. The letter caused embarrassment to Plaintiff, and confusion to both Plaintiff and
22 his daughter.

23 25. Defendant’s intentional actions in attempting to collect the alleged debt were
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25

1 harassing and abusive.

2 3 CONSTRUCTION OF APPLICABLE LAW

4 26. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry, deLaunay &
5 Durand, 103 F.3d 1232 (5th Cir. 1997). “Because the Act imposes strict liability, a consumer
6 need not show intentional conduct by the debt collector to be entitled to damages.” Russell v.
7 Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996); see also Gearing v. Check Brokerage Corp., 233
8 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector’s legal status
9 violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

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11 27. The FDCPA is a remedial statute, and therefore must be construed liberally in
12 favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The
13 remedial nature of the FDCPA requires that courts interpret it liberally. Clark v. Capital Credit
14 & Collection Services, Inc., 460 F. 3d 1162 (9th Cir. 2006). “Because the FDCPA, like the
15 Truth in Lending Act (TILA) 15 U.S.C §1601 *et seq.*, is a remedial statute, it should be
16 construed liberally in favor of the consumer.” Johnson v. Riddle, 305 F. 3d 1107 (10th Cir.
17 2002).

18 28. The FDCPA is to be interpreted in accordance with the “least sophisticated”
19 consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano
20 v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v. Southern Oregon Credit Service, Inc.,
21 869 F.2d 1222 (9th Cir. 1988). The FDCPA was not “made for the protection of experts, but for
22 the public - that vast multitude which includes the ignorant, the unthinking, and the credulous,
23 and the fact that a false statement may be obviously false to those who are trained and
24 experienced does not change its character, nor take away its power to deceive others less
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1 experienced.” Id. The least sophisticated consumer standard serves a dual purpose in that it
2 ensures protection of all consumers, even naive and trusting, against deceptive collection
3 practices, and protects collectors against liability for bizarre or idiosyncratic interpretations of
4 collection notices. Clomon, 988 F. 2d at 1318.

5
6 **COUNT I**
7 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**
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9 29. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or
10 more of the following ways:

- 11 a. Defendant violated the FDCPA generally;
- 12 b. Defendant violated § 1692c(b) of the FDCPA by communicating with a third
13 party about Plaintiff’s alleged debt without Plaintiff’s consent.
- 14 c. Defendant violated § 1692e the FDCPA by using false, deceptive, or
15 misleading representations in connection with the collection of a debt.
- 16 d. Defendant violated § 1692e(10) of the FDCPA by using false representations
17 or deceptive means in connection with the collection of a debt.
- 18 e. Defendant violated § 1692f of the FDCPA by acting in a way which is unfair
19 and unconscionable in connection with the collection of the debt.
- 20 f. Defendant acted in an otherwise deceptive, unfair and unconscionable manner
21 and failed to comply with the FDCPA.
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24 WHEREFORE, Plaintiff, WAYNE HOOVER, respectfully prays for a judgment as
25 follows:

- a. All actual compensatory damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, WAYNE HOOVER, demands a jury trial in this case.

DATED:

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

By: 

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